

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Minsuk Kim	Team: Team # 1	CCRB Case #: 201100059	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 12/31/2010 4:30 PM	Location of Incident: 90-45 148th Street	Precinct: 103	18 Mo. SOL 6/30/2012	EO SOL 6/30/2012	
Date/Time CV Reported Sun, 01/02/2011 7:08 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sun, 01/02/2011 7:08 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Reinaldo Alvarez	15342	927853	103 PCT
2. DTS Errio Paul	03742	907024	103 PCT
3. POM Alfred Davidson	23574	941621	103 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Christophe Toal	25198	941158	103 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Alfred Davidson	Force: PO Alfred Davidson used physical force against § 87(2)(b)	
B.POM Reinaldo Alvarez	Force: PO Reinaldo Alvarez used physical force against § 87(2)(b)	
C.POM Reinaldo Alvarez	Discourtesy: PO Reinaldo Alvarez spoke obscenely and rudely to § 87(2)(b) and individuals.	
D.POM Reinaldo Alvarez	Abuse: PO Reinaldo Alvarez searched the car in which § 87(2)(b) was an occupant.	
§ 87(4-b) § 87(2)(g)		

## Case Summary

§ 87(2)(b) filed the following complaint through the Call Processing System on January 2, 2011 [encl. 3A-3B]. On December 31, 2011, at approximately 4:30p.m., § 87(2)(b) exited a store near the intersection of 148<sup>th</sup> Street and Jamaica Avenue in Queens. The following allegations resulted:

**Allegation A – Force:** PO Alfred Davidson used physical force against § 87(2)(b)

**Allegation B – Force:** PO Reinaldo Alvarez used physical force against § 87(2)(b) § 87(2)(g)

**Allegation C – Discourtesy:** PO Reinaldo Alvarez spoke obscenely and rudely to § 87(2)(b) and individuals.

**Allegation D – Abuse of Authority:** PO Reinaldo Alvarez searched the car in which § 87(2)(b) was an occupant. § 87(2)(g)

§ 87(4-b) § 87(2)(g)

## Results of Investigation

### Civilian Statements

#### Complainant/Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old Hispanic male. He is 5'8" tall and has brown eyes. § 87(2)(b) did not provide additional pedigree information. § 87(2)(b) speaks Spanish exclusively, and as such, his statements were obtained by Investigator Rivera.

#### CCRB Testimony

§ 87(2)(b) provided an initial telephone statement when he filed his complaint [encl. 3A-3B], a telephone statement on January 5, 2011 [encl. 3C], was interviewed at the CCRB on January 20, 2011 [encl. 3D-3G], and contacted by telephone on May 31, 2011 [encl. 3C]. All of § 87(2)(b)'s statements were provided in Spanish. § 87(2)(g)

At approximately 4:30p.m. on December 31, 2010, § 87(2)(b) went into a store, near the intersection of 148<sup>th</sup> Street and Jamaica Avenue in Queens, to purchase a calling card. After speaking with the store clerks for some time and purchasing a drink, § 87(2)(b) left the store, at which time he observed a male acquaintance, identified by the investigation as § 87(2)(b) and a female, identified by the investigation as § 87(2)(b) involved in a dispute. § 87(2)(b) told § 87(2)(b) to stay calm and to leave the location. § 87(2)(b) then saw

a friend, whose name he did not know, across the street. § 87(2)(b) crossed the street and spoke with his friend. After § 87(2)(b) and his friend parted ways, § 87(2)(b) crossed the street once again, and re-entered the store where he purchased the calling card. § 87(2)(b) spoke to the store clerks, and then exited and walked to his vehicle, a 2010 Hyundai Santa Fe. As he opened the door, § 87(2)(b) noticed that § 87(2)(b) was standing behind him. § 87(2)(b) then threw a piece of ice at him. § 87(2)(b) told § 87(2)(b) to leave, because he would likely get arrested if he continued to harass people. After noticing a marked patrol vehicle, § 87(2)(b) said to § 87(2)(b) “See, there are the police.”

§ 87(2)(b) began to enter his vehicle because he did not want any “problems,” but noticed three uniformed police officers running towards him. In his phone statement, § 87(2)(b) stated that, prior to entering his vehicle, he had seen an unidentified civilian throw a flag or bandana to the ground. As the officers approached § 87(2)(b) they yelled at him in English, which § 87(2)(b) neither speaks nor understands. An officer, (black male, 5’6” tall, average to medium build, black hair), identified by the investigation as PO Alfred Davidson of the 103<sup>rd</sup> Precinct, knocked a soda can from his hand. Another officer (white male, approximately 5’7” tall, black hair, “Alvarez” seen on badge), identified by the investigation as PO Reinaldo Alvarez of the 103<sup>rd</sup> Precinct, then pulled on § 87(2)(b)’s left arm while PO Davidson pulled on his right arm; they then pushed him in the chest. At some point, PO Alvarez said, “Fuck you!” to § 87(2)(b) who asked what was happening. § 87(2)(b) then heard someone say in Spanish, “It’s not him, it’s not him!”

A crowd began to gather, and bystanders asked the officers why they were mistreating § 87(2)(b). PO Alvarez responded to the bystanders, but § 87(2)(b) was unable to understand what he said. Sometime thereafter, a passerby asked the officers, in English, what was happening. PO Alvarez threatened to arrest the passerby if he did not mind his own business. § 87(2)(b) knows the passerby, but does not know his name, or his contact information. § 87(2)(b) learned of the passerby’s interaction with the officers through a conversation with the passerby following the incident. As PO Alvarez and PO Davidson continued to pull on § 87(2)(b) to lead him from the sidewalk onto the street, his left foot became caught in snow, causing him to twist his ankle. § 87(2)(b)’s ankle became swollen as a result of the incident. § 87(2)(b) asked PO Alvarez and PO Davidson, in Spanish, why they were pushing and pulling him. The officers replied in English, but § 87(2)(b) did not understand their responses. PO Alvarez and PO Davidson eventually released § 87(2)(b) and returned to their vehicle. § 87(2)(b) then discussed what had happened with some of the bystanders.

Approximately five minutes thereafter, as § 87(2)(b) was speaking with the bystanders, PO Alvarez, PO Davidson, and an officer (black or Hispanic male, much taller than § 87(2)(b), thin build, short black hair, in his early to mid-30s, with a round face) identified by the investigation as DT Errio Paul of the 103<sup>rd</sup> Precinct, exited their vehicle and again approached § 87(2)(b). PO Alvarez yelled at § 87(2)(b). An unidentified bystander translated for § 87(2)(b) and told him that PO Alvarez wanted to know to whom § 87(2)(b)’s car belonged. Through the translator, § 87(2)(b) told PO Alvarez that the vehicle belonged to him. In his phone statement, § 87(2)(b) stated that he had said to PO Alvarez, in English, “I don’t speak English.” PO Alvarez then opened the driver’s side door and entered § 87(2)(b)’s legally-parked vehicle. PO Alvarez searched in the front section of the vehicle. § 87(2)(b) was unable to see if PO Alvarez looked inside the glove compartment or the center console. PO Alvarez then informed the other officers that he had found nothing, and asked the translator if § 87(2)(b) had any identification. § 87(2)(b) indicated that he did, and provided it to PO Alvarez. PO Alvarez took § 87(2)(b)’s

identification and began to write something on the hood of his patrol vehicle. PO Alvarez returned with summons #§ 87(2)(b), which was issued to § 87(2)(b) for § 87(2)(b).

§ 87(2)(b) returned to his car, and DT Paul approached him and said, in Spanish, “We told you to leave.” The bystanders accused PO Alvarez of being a racist, and the officers returned to their vehicle. At that point, PO Alvarez rolled down his window and said to § 87(2)(b) and the bystanders, “Fuck you!” § 87(2)(b) received treatment at § 87(2)(b) for the injuries that he sustained to his ankle.

**Witness:** § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old Hispanic male. He is 5’8” tall, weighs 220 pounds, and has brown hair and brown eyes.

**CCRB Testimony**

§ 87(2)(b) was interviewed on March 4, 2011 at § 87(2)(b) in Queens [encl. 4A-4C]. § 87(2)(b) was identified as a witness during a canvass of the area in which the incident occurred.

On December 31, 2010, between 2:00p.m. and 3:00p.m., § 87(2)(b) had a conversation with his cousin § 87(2)(b) whose last name he does not know, and § 87(2)(b) on the sidewalk outside of Joanie’s Princess Card. § 87(2)(b) is friends with § 87(2)(b) and referred to him throughout the interview as § 87(2)(b). After some time, § 87(2)(b) parted ways with § 87(2)(b) and he saw § 87(2)(b) outside of a grocery store across 148<sup>th</sup> Street, called Star Grocery. § 87(2)(b) spoke with § 87(2)(b) outside of the store. § 87(2)(b) later learned that § 87(2)(b) had been “harassing” a female, § 87(2)(b). § 87(2)(b) did not witness the harassment. § 87(2)(b) and § 87(2)(b) stood approximately two feet apart from each other.

§ 87(2)(b) requested assistance from a police officer who was standing at the intersection of Jamaica Avenue and 148<sup>th</sup> Street, outside of Smilen Brothers grocery store. § 87(2)(b) saw § 87(2)(b) point in the direction of § 87(2)(b) and § 87(2)(b) to identify her harasser. PO Alvarez (Hispanic male, 6’ tall, medium build, in his mid-30s, dark complexion, in uniform) approached § 87(2)(b) misidentifying the suspect. § 87(2)(b) had been walking north on 148<sup>th</sup> Street, and was approximately 300 feet away from § 87(2)(b) when PO Alvarez approached § 87(2)(b).

PO Alvarez grabbed § 87(2)(b) and asked him for his information. § 87(2)(b) could not hear the rest of the conversation between § 87(2)(b) and PO Alvarez. § 87(2)(b) alerted the officer, in English, that he had apprehended the wrong man. PO Alvarez released § 87(2)(b) and told him to leave. § 87(2)(b) then walked toward his vehicle which was parked on 148<sup>th</sup> Street, approximately 50 feet away. However, § 87(2)(b) did not leave. Instead, he spoke with bystanders for approximately five minutes from the driver’s seat of his vehicle with his door open before he was approached by DT Paul (black male, 6’ tall, medium build, in uniform) who asked him, “Why haven’t you left yet?” DT Paul grabbed § 87(2)(b) by his arm while he was still seated in his vehicle, causing § 87(2)(b) to fall to the ground. When § 87(2)(b) rose to his feet, his body language suggested that he had injured his knee.

DT Paul stood by § 87(2)(b) for a moment. § 87(2)(b) did not see anything further because he walked away. § 87(2)(b) is a frequent visitor to § 87(2)(b), § 87(2)(b), yet § 87(2)(b) stated that he had not spoken with § 87(2)(b) about the incident.

**Witness:** § 87(2)(b)

- § 87(2)(b) is a Hispanic male. He did not provide additional pedigree information. § 87(2)(b) speaks Spanish exclusively, and as such, this interview was conducted by Investigator Rivera.

**CCRB Testimony**

§ 87(2)(b) was interviewed on March 4, 2011 at § 87(2)(b) in Queens [encl. 5A-5C]. § 87(2)(b) was identified as a witness during a canvass of the area in which the incident occurred.

On December 31, 2010, at approximately 4:30pm, § 87(2)(b) observed § 87(2)(b) purchase calling cards at a store near the intersection of 148<sup>th</sup> Street and Jamaica Avenue in Queens. After purchasing these cards, § 87(2)(b) exited the store and walked next door to another store, where he purchased a “Monster” brand energy drink. From the store, § 87(2)(b) walked across the street to his vehicle, which was parked on 148<sup>th</sup> Street, near Jamaica Avenue. Shortly thereafter, three uniformed police officers arrived from the direction of Jamaica Avenue in a marked patrol vehicle.

PO Alvarez (Hispanic male, 5’7” tall, medium build, late 20s or early 30s, with short hair and dark complexion) approached § 87(2)(b) and made “vulgar” and “disrespectful” remarks toward him, in English. § 87(2)(b) refused to repeat the remarks. § 87(2)(b) does not speak or understand English, but appeared to be surprised by the officers’ presence. § 87(2)(b) is acquainted with § 87(2)(b) he sees him regularly at § 87(2)(b). PO Alvarez pulled § 87(2)(b) from his vehicle and either PO Davidson (black male, 5’7” tall, average build, late 20s or early 30s) or DT Paul (black male with an average build) knocked a beverage out of his hand. At some point, PO Alvarez pushed § 87(2)(b). Over the course of the incident, people began to gather at the location and told the officers to leave § 87(2)(b) alone, as he had not done anything wrong. Either PO Davidson or DT Paul subsequently told § 87(2)(b) to leave the location. § 87(2)(b) did not respond to the officer’s order.

§ 87(2)(b) did not witness any further interaction between § 87(2)(b) and the officers as he had to return to work.

**Attempts to Contact Civilians**

At the time of his interview, § 87(2)(b) was unable to provide the names and contact information for the civilians present during the incident. § 87(2)(b) stated that he would obtain the information and provide it to the undersigned. Inv. Rivera called § 87(2)(b) on October 23, 2011, to request the information. § 87(2)(b) was unable to provide the information, but stated that he would be able to acquire it. Inv. Rivera placed a second call to § 87(2)(b) on October 31, 2011. Again, § 87(2)(b) was unable to provide the information, but agreed to provide it by November 4, 2011. As of November 7, 2011, § 87(2)(b) had not provided the information.

The investigation was unable to contact § 87(2)(b) § 87(2)(b) s arrest report did not specify an address at which he could be reached. A LexisNexis search for § 87(2)(b) did not yield any results.

On February 17, 2011, the undersigned contacted § 87(2)(b) § 87(2)(b) described an individual matching § 87(2)(b)'s description as coming to her assistance when she was assaulted by § 87(2)(b) § 87(2)(b) however, did not recall what happened after she was assaulted.

### **Medical Records**

§ 87(2)(b) received medical treatment at § 87(2)(b). According to his medical records [encl. 10A-10P], his physical exam showed tenderness in his right knee, and edema and tenderness in his left ankle. § 87(2)(b) was diagnosed with pain in his left ankle and an ankle contusion. § 87(2)(b) was given 800mg of Motrin, an ace wrap bandage, and a cane.

### **NYPD Statements:**

#### **Subject Officer: PO REINALDO ALVAREZ**

- *PO Reinaldo Alvarez is a § 87(2)(b)-old Hispanic male. He is 5'6" tall, weighs 165 pounds, and has brown hair and brown eyes.*
- *PO Alvarez was assigned to patrol Sectors F and G of the 103<sup>rd</sup> Precinct with DT Errio Paul from 3:00p.m. to 11:35p.m. on December 31, 2010. He was in uniform and assigned to marked patrol car number 3023.*

#### **Summons**

PO Alvarez issued § 87(2)(b) summons number § 87(2)(b) for § 87(2)(b) at the intersection of 148<sup>th</sup> Street and Jamaica Avenue in Queens at 4:30p.m. on December 31, 2010 [encl. 6A]

#### **Memo Book**

PO Alvarez prepared the following memo book entries regarding the incident [encl. 6B-6F]. At 4:22p.m., PO Alvarez prepared a domestic incident report for an unfounded incident in regards to an incident at 148<sup>th</sup> Street and Jamaica Avenue. PO Alvarez issued § 87(2)(b) a summons for § 87(2)(b) (number § 87(2)(b)) at the location.

#### **CCRB Testimony**

PO Alvarez was interviewed at the CCRB on April 13, 2011 [encl. 6G-6H].

On December 31, 2010, PO Alvarez and DT Paul responded to a call regarding an assault in the vicinity of 148<sup>th</sup> Street and Jamaica Avenue, to assist Sectors A and B. Upon arriving at the scene, PO Alvarez spoke with the victim of the assault, § 87(2)(b) § 87(2)(b) told the officers that she was assaulted by a male individual and pointed in the direction of § 87(2)(b) and another male, identified through investigation as § 87(2)(b) PO Alvarez conferred with § 87(2)(b) on the east side of 148<sup>th</sup> Street and the two men stood directly across the street, approximately 20 feet away, on the west side.

PO Alvarez approached the two men, pointed toward § 87(2)(b) and asked § 87(2)(b) if he was the suspect. § 87(2)(b) stated that he was. PO Alvarez then asked § 87(2)(b) to leave the scene. § 87(2)(b) ignored PO Alvarez and continued to speak to § 87(2)(b) in Spanish. PO Alvarez again instructed § 87(2)(b) to leave and § 87(2)(b) did not comply. PO Alvarez does not speak Spanish and issued the commands to § 87(2)(b) in English.

PO Alvarez became “nervous” because § 87(2)(b) ignored his commands. PO Alvarez subsequently frisked § 87(2)(b). PO Alvarez did not recall if § 87(2)(b) had any bulges in his clothing or if a weapon had been used in the assault, but did remember that § 87(2)(b) had a non-alcoholic beverage in his hand. Two unidentified people stood nearby as PO Alvarez conducted the frisk. § 87(2)(b) had been standing by a vehicle. PO Alvarez asked § 87(2)(b) if the vehicle was his, but was unable to recall if § 87(2)(b) answered or if he confirmed that the vehicle belonged to him. PO Alvarez could not describe the vehicle. The front passenger door to the vehicle was ajar and PO Alvarez searched the interior solely because § 87(2)(b) had been standing by the vehicle and did not comply with instructions to leave the location. PO Alvarez was “nervous” because § 87(2)(b) had not followed his instructions and therefore decided to search the vehicle “for his safety.” In his interview, when asked if he had reason to suspect that there were weapons in the vehicle, PO Alvarez replied, “Yeah, when somebody doesn’t listen to the police... I asked him several times, I asked him more than ten times to leave.” PO Alvarez looked under and behind the front and rear seats. There was no contraband found inside of § 87(2)(b)’s vehicle.

PO Alvarez then escorted § 87(2)(b) across 148<sup>th</sup> Street, into the custody of PO Christopher Toal and PO Alfred Davidson, who were assigned to patrol Sector A. § 87(2)(b) remained by his vehicle. § 87(2)(b) was speaking in Spanish with another unidentified male. The number of people in the area had grown to ten. PO Alvarez again approached § 87(2)(b) and through the unidentified male translator explained to § 87(2)(b) that although § 87(2)(b) could be arrested, PO Alvarez would instead be issuing him a summons, and asked for his identification. § 87(2)(b) refused to provide his identification and stated in Spanish that he did not do anything wrong and did not understand why he was being issued a summons. It is unclear how PO Alvarez understood § 87(2)(b)’s reply. Members of the gathered crowd, including the man who interpreted for § 87(2)(b) and PO Alvarez, who urged § 87(2)(b) to cooperate. PO Alvarez issued § 87(2)(b) a summons for causing a crowd to gather, thus § 87(2)(b).

PO Alvarez could not recall if § 87(2)(b) ever attempted to enter his vehicle. He denied ever pulling or trying to move § 87(2)(b) and further stated that aside from the frisk, he did not make physical contact with § 87(2)(b). PO Alvarez stated that he never threatened to arrest any individuals other than § 87(2)(b). PO Alvarez denied saying “fuck you” or using any other profane language toward § 87(2)(b) or any other individuals.

#### **Subject Officer: PO ALFRED DAVIDSON**

- *PO Alfred Davidson is a § 87(2)(b)-old black male. He is 5’9” tall, weighs 216 pounds, and has black hair and brown eyes.*
- *PO Davidson was assigned to patrol Sectors A and B of the 103<sup>rd</sup> Precinct with PO Christopher Toal from 3:00p.m. until 11:35p.m. on December 31, 2010. He was in uniform and assigned to marked patrol car number 1822.*

#### **Memo Book**

PO Davidson prepared the following relevant memo book entry [7A-7C]. At 3:40p.m., PO Davidson received a call of a reported larceny in progress at the intersection of 144<sup>th</sup> Street and Jamaica Avenue. One individual was arrested by PO Toal for § 87(2)(b).

#### **CCRB Testimony**

PO Davidson was interviewed at the CCRB on July 20, 2011 [encl. 7D-7E].

On December 31, 2010, PO Davidson and his partner, PO Christopher Toal, were assigned a job at the intersection of 148<sup>th</sup> Street and Jamaica Avenue in Queens. Upon arriving at the location, PO Davidson and PO Toal saw § 87(2)(b) standing with her mother on a corner. § 87(2)(b) was assaulted by a male, § 87(2)(b). The officers interviewed § 87(2)(b) and her mother, who pointed to § 87(2)(b) who was standing approximately ten feet away, toward the middle of the block. PO Davidson and PO Toal approached § 87(2)(b) who was standing by himself, and PO Toal arrested him. One other patrol car arrived and assisted with the arrest. PO Davidson could not recall who the officers were. Neither PO Davidson nor PO Toal called for assistance. Additional officers responded because of the urgent nature of the call. PO Davidson did not recall what the additional officers did upon arriving at the scene and did not recall if the officers interacted with anyone at the location. PO Davidson and PO Toal transported § 87(2)(b) to the 103<sup>rd</sup> Precinct stationhouse approximately 15 to 20 minutes later. PO Davidson reviewed a photocopy of § 87(2)(b)'s driver's license, but could not recognize him. PO Davidson denied pushing or pulling § 87(2)(b).

**Witness Officer: PO CHRISTOPHER TOAL**

- *PO Christopher Toal is a § 87(2)(b)-old white male. He is 5'11" tall, weighs 165 pounds, and has black hair and green eyes*
- *PO Toal was assigned to patrol Sectors A and B of the 103rd Precinct with PO Alfred Davidson from 3:00p.m. until 11:30p.m. on December 31, 2010. PO Toal was in uniform and assigned to marked auto number 1822.*

**Memo Book**

PO Toal prepared the following memo book entries: At 4:15p.m., PO Toal received a call regarding an assault in progress at 148-01 Jamaica Avenue. At 4:27p.m., one individual was arrested at the location. [encl. 8A-8D].

**CCRB Testimony**

PO Toal was interviewed at the CCRB on April 18, 2012 [encl. 8E-8F].

PO Toal did not initially remember the incident, but recalled details about the arrest of § 87(2)(b) after reviewing § 87(2)(b)'s arrest report. On December 31, 2010, PO Toal and his partner, he could not recall whom, responded to an assault in progress at 148-01 Jamaica Avenue. PO Toal could not recall who drove the officers' vehicle. Upon arriving at the location, the officers exited their vehicle, and PO Toal canvassed the location. PO Toal was "waved down" by either § 87(2)(b) or her mother. PO Toal spoke with § 87(2)(b) and her mother who explained that they had been involved in an argument with § 87(2)(b) and that § 87(2)(b) struck § 87(2)(b) with a flagpole. § 87(2)(b) and her mother pointed out § 87(2)(b). PO Toal could not recall how far away § 87(2)(b) was when he was identified, but remembered that he was in the vicinity. PO Toal did not have to conduct a canvass with § 87(2)(b) and her mother. PO Toal could not remember if he personally apprehended § 87(2)(b) and if any other civilians were in the vicinity. PO Toal noted that the location is situated in a busy area with heavy traffic and many people walking around.

PO Toal did not have § 87(2)(b)'s address in his memo book. PO Toal did not remember any profanity used or any threat of arrest issued by another officer at the location. Additional units arrived at the location, but PO Toal could not recall who the officers were. PO Toal could not



recall if PO Alvarez or DT Paul were present at the location, nor could he recall working with PO Davidson on the date. PO Toal was shown a photocopy of § 87(2)(b)'s driver's license and told that § 87(2)(b) had been present at the location, was an acquaintance of § 87(2)(b)s, and that he spoke Spanish, yet PO Toal did not recognize him. PO Toal was not asked about the information on the flysheet that he prepared.

**Witness Officer: DT ERRIO PAUL**

- *DT Errio Paul is a § 87(2)(b)-old black male. He is 6'0" tall, weighs 200 pounds, and has black hair and brown eyes.*
- *DT Paul was assigned to patrol Sectors F and G of the 103<sup>rd</sup> Precinct with PO Reinaldo Alvarez from 3:00p.m. to 11:35p.m. on December 31, 2010. He was in uniform and assigned to marked patrol car number 3023.*

**Memo Book**

DT Paul had no entries in his memo book related to the incident [encl. 9A-9D].

**CCRB Testimony**

DT Paul was interviewed at the CCRB on June 17, 2011 [encl. 9E-9F].

DT Paul did not bring his memo book to his interview and had no recollection of the incident or who his partner was on the date of the incident. Upon reviewing a copy of the roll call from the date of the incident, DT Paul confirmed that he and PO Alvarez were assigned to work together, but stated that roll calls were sometimes amended after being prepared, and thus, could be wrong. However, DT Paul still had no recollection of working with PO Alvarez. DT Paul could not recall the incident after reviewing the following documents: arrest report, SPRINT, and PO Alvarez's memo book entries. Additionally, DT Paul was provided with an oral synopsis of the incident and shown a photocopy of § 87(2)(b)'s identification, but still could not recall the incident.

**NYPD Documents**

**SPRINT Report**

SPRINT job number § 87(2)(b) [encl. 11J] shows that at 4:18p.m. on December 31, 2010, a female caller reported an assault in progress at 149-1 Jamaica Avenue in Queens. The assailant had used a pole. At 4:18p.m., officers assigned to Sector A received the call. At 4:19p.m., the 103<sup>rd</sup> Precinct's patrol supervisor received the call. At 4:19p.m., the dispatcher stated that no EMS was needed and described the suspect as a Hispanic male, wearing all black, and intoxicated. At 4:20p.m., officers assigned to Sector F received the call. At 4:34p.m., officers from Sector A resumed patrol. At 4:53p.m., the patrol supervisor resumed patrol. At 11:28p.m., officers from Sector A provided the final disposition of the job: they made a criminal arrest.

**Roll Call**

The 103<sup>rd</sup> Precinct roll call for Tour 3 on December 31, 2010 [encl. 11A-11I] confirms that PO Alvarez and DT Paul were partners, assigned to patrol Sectors F and G in patrol car number 3023. PO Davidson and PO Toal were partners, assigned to patrol Sectors A and B in patrol car number 1822.

**Arrest Report**

§ 87(2)(b) s arrest report contained the following narrative: § 87(2)(b)

The arrest was made at 4:27p.m. on December 31, 2010, at 148-01 Jamaica Avenue by PO Christopher Toal.

### **Disposition of Summons**

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### **Status of Civil Proceedings**

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of July 28, 2011 with regard to the incident [encl. 14B].

### **Civilian Criminal History**

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### **Civilian CCRB History**

- The present complaint is the first that § 87(2)(b) has filed with the CCRB [encl. 2C].

### **Subject Officer CCRB History**

- PO Reinaldo Alvarez has been a member of the service for 10 years and has two substantiated allegations against him. In case number 200302054, the board substantiated allegations of a threat of arrest and a retaliatory summons. The NYPD imposed a command discipline A [encl. 2A]
- PO Alfred Davidson has been a member of the service for five years and there are no substantiated CCRB allegations against him [encl. 2B].

### **Conclusion**

### **Identification of Subject Officers**

PO Alvarez admitted to interacting with § 87(2)(b) § 87(2)(g)

§ 87(2)(b) described two black male officers as being present during the incident. The subject of a physical force allegation was described as a black male, 5'6" tall, average to medium build, black hair. The other officer was described as a black or Hispanic male, much taller than § 87(2)(b) (who is 5'8" tall), thin build, short black hair, in his early to mid-30s, with a round face. A SPRINT report from the incident shows that officers assigned to Sectors A and F of the 103<sup>rd</sup> Precinct responded to the location. According to the 103<sup>rd</sup> Precinct's Tour 3 roll call from the date of the incident, PO Toal and PO Davidson were assigned to Sectors A and B, and PO Alvarez and DT Paul were assigned to Sectors F and G. PO Davidson and DT Paul are both black males. PO Davidson is 5'9" tall, weighs 216 pounds, § 87(2)(b) old, and has black hair and brown eyes. DT Paul is 6'0" tall, weighs 200 pounds, § 87(2)(b) old, and has black hair and brown eyes. § 87(2)(g)

### Allegations Not Pleaded

§ 87(2)(g)

### Investigative Findings and Recommendations

**Allegation A – Force: PO Alfred Davidson used physical force against § 87(2)(b)**

**Allegation B – Force: PO Reinaldo Alvarez used physical force against § 87(2)(b)**

§ 87(2)(b) stated that he was approached by PO Alvarez and PO Davidson. PO Alvarez pulled on his left arm and PO Davidson pulled on his right arm. The officers then pushed § 87(2)(b) in his chest. § 87(2)(b) and § 87(2)(b) both mentioned that force had been used against

§ 87(2)(b) § 87(2)(g)

§ 87(2)(b) stated that PO Alvarez grabbed an unspecified part of § 87(2)(b)'s body and asked for his information and, later on, DT Paul pulled § 87(2)(b) out of car by his arm, causing § 87(2)(b) to fall. § 87(2)(b) stated that PO Alvarez pushed § 87(2)(b) at some point during the incident. In their CCRB testimonies, both PO Alvarez and PO Davidson denied pulling or pushing § 87(2)(b) § 87(2)(g)

**Allegation C – Discourtesy: PO Reinaldo Alvarez spoke obscenely and rudely to § 87(2)(b) and individuals.**

§ 87(2)(b) stated that, during the incident, PO Alvarez said to him, “Fuck you,” and repeated this as the officers drove away from the scene, directed to a general body of bystanders. PO Alvarez denied making either remark or using any other profane language. § 87(2)(b) stated that he had heard PO Alvarez make “vulgar” and “disrespectful” remarks toward § 87(2)(b) but refused to repeat the remarks. § 87(2)(b) was unable to corroborate the allegation as he stated that he left the location prior to when the remarks were allegedly made.

According to Patrol Guide Procedure 203-09 [encl. 1S], officers are to be “courteous and respectful” in their interactions with the public.

§ 87(2)(g)

**Allegation D – Abuse of Authority: PO Reinaldo Alvarez searched the car in which § 87(2)(b) was an occupant.**

§ 87(2)(b) stated that PO Alvarez asked him, through an interpreter, if the vehicle that he stood by was his. After § 87(2)(b) confirmed that it was, PO Alvarez opened the driver side door of his vehicle and searched the front section of the vehicle's interior. PO Alvarez stated that § 87(2)(b) had been standing near a vehicle, and PO Alvarez was "nervous" because § 87(2)(b) refused to leave the location after being ordered to do so. When asked if he had a reason to suspect that there were weapons inside the vehicle, PO Alvarez replied, "Yeah, when somebody doesn't listen to the police... I asked him several times, I asked him more than ten times to leave." PO Alvarez did not recall any bulges on § 87(2)(b) or if a weapon had been used in the assault to which he had responded. PO Alvarez admitted to entering the vehicle and searching under and behind the front and rear seats.

An action undertaken to expose an area in a vehicle which is not readily observable from the outside constitutes a search within the meaning of the Fourth Amendment. People v. Young, 207 A.D.2d 465 (App. Div. 2d Dep't 1994) [encl. 1A-1D]. A warrantless search of a vehicle is permitted under the automobile exception to the warrant requirement, when the police have probable cause to believe the vehicle contains contraband, a weapon, or evidence of a crime. Absent probable cause, police may perform a limited protective search based on a reasonable suspicion that a weapon is located within the vehicle which presents an actual and specific danger to their safety. People v. Vargas, 2011 NY Slip Op 7867 (App. Div. 2d Dep't 2011) [encl. 1M-1O]; People v. Torres, 74 NY 2d 224 (NY Court of Appeals 1989) [encl. 1E-1L].

§ 87(2)(g)

[REDACTED]

§ 87(4-b) § 87(2)(g)

[REDACTED]

[REDACTED]

§ 87(4-b) § 87(2)(g)

Team: \_\_\_\_\_

:

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date